

PATENT  
Serial No. 09/963,631  
Amendment in Reply to Final Office Action mailed on January 30, 2006

REMARKS

This Amendment is being filed in response to the Final Office Action dated January 30, 2006, which has been reviewed and carefully considered.

By means of the present amendment, Claims 11 and 15 have been amended. Claims 11-18 are pending in this application, with claims 11 and 15 being the only independent claims.

Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, claims 11 and 15 have been amended to correct a typographical error and delete bullet designations. Claims 11 and 15 were not amended in order to address issues of patentability and Applicant respectfully reserves all rights he may have under the Doctrine of Equivalents.

In the Final Office Action, claims 11-18 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,574,796 (Roeck). It is respectfully submitted that claims 11-18 are patentable over Roeck for at least the following reasons.

PATENT  
Serial No. 09/963,631  
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Roeck is directed to an apparatus for detecting a data carrier in a downstream channel by a cable modem. Column 4, lines 59-64 is cited to allegedly show the recitation of independent claims 1 and 15, namely:

stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps, the frequency steps being substantially equal to the bandwidth of the frequency channels.

Applicant respectfully disagrees. In particular, Column 4, lines 52-64 merely recite:

locating the correct data carrier frequency channel ... [in] a list of frequencies ... [where] each frequency channel starting at every 6<sup>th</sup> MHz, beginning with 88 MHz is a potential data carrier ... The cable modem checks all frequency channels ... to locate the correct data carrier. (Emphasis added)

Applicant respectfully disagrees. While Roeck discloses that a potential data carrier may be in a frequency channel starting at every 6th MHz, Roeck merely teaches checking all frequency channels without further specifying how such channels are searched or checked. It is respectfully submitted that a 6 MHz wide channel may be searched in practically infinite number of ways.

Even assuming, arguendo, that Roeck discloses searching the

PATENT

Serial No. 09/963,631

Amendment in Reply to Final Office Action mailed on January 30, 2006

frequency channels in a stepwise fashion, there are still practically infinite number of steps and step sizes that may be used in performing such a stepwise search. The fact that Roeck teaches that the frequency channel starting at every 6<sup>th</sup> MHz has nothing to do, and does not teach or suggest, scanning in 6<sup>th</sup> MHz steps.

Roeck simply does not teach or suggest the particular features of the present invention as recited in independent claims 11 and 15 which, amongst other patentable features, requires (illustrative emphasis provided):

stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps, the frequency steps being substantially equal to the bandwidth of the frequency channels.

These features are nowhere taught or suggested in Roeck. Accordingly, it is respectfully submitted that independent claims 11 and 15 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 12-14 and 16-18 should also be allowed at least based on their dependence from independent claims 11 and 15.

In addition, Applicant denies any statement, position or

PATENT

Serial No. 09/963,631

Amendment in Reply to Final Office Action mailed on January 30, 2006


averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded. And in particular, no Official Notices are conceded.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicants' representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to Deposit Account No. 50-3649.

PATENT  
Serial No. 09/963,631  
Amendment in Reply to Final Office Action mailed on January 30, 2006

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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